



Billing Code 7510-13

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1845 and 1852

RIN 2700-AE23

**NASA Federal Acquisition Regulation Supplement: NASA
Capitalization Threshold (NFS Case 2015-N004)**

AGENCY: National Aeronautics and Space Administration.

ACTION: Interim rule.

SUMMARY: The National Aeronautics and Space Administration (NASA) is issuing an interim rule amending the NASA FAR Supplement to increase the NASA capitalization threshold from \$100,000 to \$500,000.

DATES: Effective [Insert date of publication in the **FEDERAL REGISTER**].

Comment Date: Comments on this interim rule should be submitted in writing to the address shown below on or before [Insert 60 days after publication in the **FEDERAL REGISTER**] to be considered in the formation of the final rule.

ADDRESSES: Interested parties may submit comments identified by NFS Case 2015-N004, using any of the following methods:

- o *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by entering "NFS

Case 2015-N004" under the heading "Enter keyword or ID" and selecting "Search." Select the link "Submit a Comment" that corresponds with "NFS Case 2015-N004." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "NFS Case 2015-N004" on your attached document.

- o *E-mail:* Andrew.ORourke@NASA.gov. Include NFS Case 2015-N004 in the subject line of the message.

- o *Fax:* (202) 358-3082.

- o *Mail:* National Aeronautics and Space Administration, Headquarters, Office of Procurement, Contract and Grant Policy Division, Attn: Andrew O'Rourke, Room 5L32, 300 E. Street SW, Washington, DC 20546-0001.

FOR FURTHER INFORMATION CONTACT: Andrew O'Rourke, NASA Office of Procurement, Contract and Grant Policy Division, 202-358-4560, email: andrew.orourke@nasa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Statement of Federal Financial Accounting Standard (SFFAS) No. 6, Accounting for Property, Plant, and Equipment, federal agencies are to record as property and equipment all items that meet certain characteristics, such as a useful life of 2 years or more, and are permitted to establish individual capitalization thresholds and useful life

policies due to their diverse size and uses of property, plant & equipment. SFFAS No. 6 was issued in November 1995 and was effective for fiscal years beginning after September 30, 1997. The current NASA capitalization threshold of \$100,000, was established when SFFAS 6 was initially implemented and is in the NFS.

The Government Accountability Office (GAO) recommends that capitalization thresholds should be periodically reevaluated to help ensure their continuing relevance and are tied to materiality as well, in that they generally are established at a level that would not omit a significant amount of assets from the balance sheet, which could materially misstate the financial statements of an entity or its components.

Recently, the NASA Office of the Chief Financial Officer conducted a review of the current NASA capitalization threshold of \$100,000 and based on this review it was determined to increase the capitalization threshold from \$100,000 to \$500,000.

II. Discussion

This interim rule revises NFS parts 1845 and 1852 by increasing an already established NASA capitalization threshold from \$100,000 to \$500,000. Specifically, the proposed changes are as follows:

- Added a new paragraph (b) to section 1845.301-71.

- Changed capitalization threshold amount from \$100,000 to \$500,000 in sections 1845.7101-1, 1845.7101-2, 1845.7101-3, 1852.245-70, and 1852.245-78.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule is not a significant regulatory action under section 3(f) of Executive Order 12866. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

NASA does not expect this interim rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the objective of this interim rule is to increase the already established NASA capitalization threshold from \$100,000 to \$500,000. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

The increase in the NASA capitalization threshold is expected to benefit NASA contractors by reducing the administrative burden associated with financial reporting of NASA property in the custody of contractors. The legal basis for this rule is 51 U.S.C. 20113(a).

The requirements under this rule will apply to any contract award (including contracts for supplies, services, construction, and major systems) that requires the use of Government property by contractors. According to NASA Property Records in FY 2014 there were 568 contracts that required reporting of Government property by NASA contractors. Of the 568 contracts, it is estimated that approximately 20% or 114 contracts were small businesses.

The rule does not duplicate, overlap, or conflict with any other Federal rules. No alternatives were identified that would meet the objectives of the rule.

NASA invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities. NASA will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (NASA Case 2015-N004), in correspondence.

V. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 104-13) is applicable. However, the NFS changes do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, et seq. beyond those identified and approved as part of the FAR part 45 (Ref OMB Control No. 9000-0075) and under NASA OMB Control No. 2700-0017.

VI. Determination To Issue an Interim Rule.

A determination has been made by the Assistant Administrator for Procurement, pursuant to 41 U.S.C. 1707(d) that urgent and compelling reasons exist to justify promulgating this rule on an interim basis without prior opportunity for public comment. This interim rule is needed to prevent the continuation of the mandate of contractors having to submit reports at the current threshold specified in the NASA FAR Supplement while the NASA Financial Regulation requires reporting at a higher dollar threshold. This inconsistency of reporting threshold results in contractors incurring costs of reporting unnecessary information at taxpayer expense. Immediate implementation of this rule will reduce superfluous reporting burdens to contractors resulting in savings to both contractor and the Government. By increasing the NASA capitalization threshold, we estimate a reduction in reporting of 320 assets resulting in an annual decrease in burden of 1,920 hours and approximately \$148,000 in cost avoidance.

The current NASA capital asset threshold of \$100,000 was established when Statement of Federal Financial Accounting Standard (SFFAS) No. 6, Accounting for Property, Plant, and Equipment was initially implemented in 1997 and has not been adjusted in the NFS since that time. The Government Accountability Office (GAO) recommends that capital asset thresholds should be periodically reevaluated to ensure their continuing relevance and that they are established at a level that would not omit a significant amount of assets from the balance sheet. As such the NASA Office of the Chief Financial Officer conducted a review of the current NASA capital asset threshold of \$100,000 and based on this review determined an increase in the capital asset threshold to \$500,000 was warranted per NASA Interim Directive (NID) for NPR 9250.1, Property, Plant, and Equipment and Operating Materials and Supplies.

The most effective and efficient way to ensure awareness of and compliance by contractors with this increase to the capital asset threshold reporting requirement is through an immediate regulatory change. Delaying promulgation of this increase to the capital asset threshold would cause contractors to continue reporting such assets at the lower threshold effectively maintaining this unnecessary administrative burden on the contractor and delaying contractor savings that would come from

this reduced reporting requirement. Moreover, contractors would be providing information on capital assets that would not be used by NASA since the NID implementing this capital asset threshold increase within the NASA financial community is already in effect. Pursuant to 41 U.S.C. 1707 and FAR 1.501-3(b), NASA will consider public comments received in response to this interim rule in the formation of the Agency's final rule.

List of Subjects in 48 CFR Parts 1845 and 1852

Government procurement.

Manuel Quinones,

Federal Register Liaison.

Accordingly, 48 CFR parts 1845 and 1852 are amended as follows:

PART 1845—GOVERNMENT PROPERTY

1. The authority citation for 48 CFR part 1845 is revised to read as follows:

Authority: 51 U.S.C. 20113(a) and 41 U.S.C. chapter 1.

2. Amend section 1845.301-71 by adding paragraph (b) to read as follows:

1845.301-71 Use of Government property for commercial work.

* * * * *

(b) (1) The Center Procurement Officer is the approval authority for non-Government use of equipment exceeding 25 percent.

(2) The percentage of Government and non-Government use shall be computed on the basis of time available for use. For this purpose, the contractor's normal work schedule, as represented by scheduled production shift hours, shall be used. All equipment having a unit acquisition cost of less than \$500,000 at any single location may be averaged over a quarterly period. Equipment having a unit acquisition cost of \$500,000 or more shall be considered on an item-by-item basis.

(3) Approvals for non-Government use, less than 25 percent, may not exceed 1 year. Approval for non-Government use in excess of 25 percent shall not exceed 3 months.

(4) Requests for the approval shall be submitted to the Center Procurement Officer at least 6 weeks in advance of the projected use and shall include—

(i) The number of equipment items involved and their total acquisition cost; and

(ii) An itemized listing of equipment having an acquisition cost of \$500,000 or more, showing for each item the nomenclature, year of manufacture, and acquisition cost.

3. Amend section 1845.7101-1 by removing "100,000" everywhere it appears and adding "500,000" in its place.

1845.7101-2 [Amended]

4. Amend section 1845.7101-2, in paragraph (a), by removing "100,000" and adding "500,000" in its place.

5. Amend section 1845.7101-3 by revising paragraph (f) to read as follows:

1845.7101-3 Unit acquisition cost.

* * * * *

(f) Only modifications that improve an item's capacity or extend its useful life two years or more and that cost \$500,000 or more shall be reported on the NF 1018 on the \$500,000 & Over line. The costs of any other modifications, excluding routine maintenance, will be reported on the Under \$500,000 line. If an item's original unit acquisition cost is less than \$500,000, but a single subsequent modification costs \$500,000 or more, that modification only will be reported as an item \$500,000 or more on subsequent NF 1018s. The original acquisition cost of the item will continue to be included in the under \$500,000 total. The quantity for the modified item will remain "1" and be reported with the original acquisition cost of the item. If an item's acquisition cost is reduced by removal of components so that its remaining acquisition cost is under \$500,000, it shall be reported as under \$500,000.

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PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

6. The authority citation for 48 CFR part 1852 is revised to read as follows:

Authority: 51 U.S.C. 20113(a) and 41 U.S.C. chapter 1.

7. Amend section 1852.245-70 by revising the date of the clause, paragraphs (b)(1)(iv) and (v), and the date of the clause and introductory text for Alternate I to read as follows:

1852.245-70 Contractor requests for Government-provided equipment.

* * * * *

CONTRACTOR REQUESTS FOR GOVERNMENT-PROVIDED EQUIPMENT

[Insert Abbreviated Month and Year of Publication in the Federal Register]

* * * * *

(b) * * *

(1) * * *

(iv) Combine requests for quantities of items with identical descriptions and estimated values when the estimated values do not exceed \$500,000 per unit; and

(v) Include only a single unit when the acquisition or construction value equals or exceeds \$500,000.

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ALTERNATE I

[Insert Abbreviated Month and Year of Publication in the Federal Register]

As prescribed in 1845.107-70(a)(2), add the following paragraph (e).

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1852.245-78 [Amended]

8. Amend section 1852.245-78 by removing "JAN 2011" and adding "[Insert Abbreviated Month and Year of Publication in the Federal Register]" in its place and in paragraph (a) removing "100,000" and adding "500,000" in its place.

[FR Doc. 2015-21101 Filed: 8/26/2015 08:45 am; Publication Date: 8/27/2015]